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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/735,709	12/16/2003	Hiroji Akahori	030712-18	3458
78198 7590 08/01/2008 Studebaker & Brackett PC 1890 Preston White Drive Suite 105 Reston, VA 20191				
EXAMINER				
SAFAIPOUR, BOBBAK				
ART UNIT		PAPER NUMBER		
2618				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/735,709

Applicant(s)

AKAHORI, HIROJI

Examiner

BOBBAK SAFAIPOUR

Art Unit

2618

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 May 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(c), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(c) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 5/21/2008 has been entered.

Claims 5-12 have been withdrawn from consideration. **Claims 1-4** are still pending in the present application.

Response to Arguments

Applicant respectfully asserts that both Bontu and Sakoda combined or separately, fail to teach, disclose, or suggest information generating means configured to generate new control information in accordance with both the supplied direction information and current control information, as recited in amended claim 1.

The Examiner respectfully disagrees. Sakoda et al disclose that if the instructions of the received control signal are to control the power value in the direction (read as supplied direction information) of allowing it to exceed the power control range, the number of receptions of the control signal is counted (read as generating new control information), and if the instructions of the control signal received thereafter are to control the power value in the direction (read as supplied direction information) of not allowing it to exceed the power control range, the count value of the number of receptions is decreased (also read as generating new control information), and the power value is not controlled in the direction of not allowing it to exceed the power

control range until the count value reaches a predetermined value. (abstract; figure 6; col. 9 line 5 to col. 10 line 38). The recited claim language is given the broadest reasonable interpretation; therefore the previous rejection will apply.

Furthermore, Sakoda discloses that the control unit 34 determines whether the current transmission power (read as current control information) is greater than the minimum transmission power or not. If the negative result is obtained, the result means that a power-down command is supplied even though the current transmission power has already reached the minimum transmission power and the transmission power cannot be lowered any more. On the other hand, if the positive result is obtained, the result means that there is room to further lower the transmission power since the current transmission power is greater than the minimum transmission power (figure 6; col. 10, lines 28).

If the Applicant intends to differentiate between the supplied direction information and current control information of the present application and the Sakoda reference, then such differences should be made explicit in the claims. As a result, the argued features are written such that they read upon the cited references; therefore, the previous rejection still applies.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Bontu et al (US 6,418,137 B1)** in view of **Sakoda et al (US 6,226,526 B1)**.

Consider **claim 1**, Bontu et al disclose a filter device comprising: integrating means for integrating control information (abstract, col. 2, lines 24-42; Base station produces a power control bit dependent on SNR) supplied thereto over a period up to being reset, and outputting an integrated value (abstract; Threshold margins are reset when SNR does not exceed an upper threshold margin or fall below a lower threshold margin); direction determining means to which a first threshold value for determining an increasing direction (abstract, col. 2, lines 24-42; In response to the determined signal quality parameter exceeding an upper threshold (i.e. increasing direction) by an upper threshold margin) and a second threshold value for determining a decreasing direction (col. 2, lines 32-36; In response to the determined signal quality parameter being below a lower threshold (i.e. decreasing direction) below a lower threshold) are set in advance, said direction determining means comparing these set threshold values and the integrated value respectively (col. 2, lines 36-44; In response to the determined signal quality parameter not exceeding the upper threshold by the upper threshold margin and not being below

the lower threshold by the lower threshold margin) and outputting direction information indicative of a coincident control direction of these results of comparison (col. 2, lines 36-44; Producing a power control bit with a binary value opposite to the binary value of the preceding power control bit).

Bontu et al fail to specifically disclose an information generating means for generating new control information in accordance with both the supplied direction information and current control information.

In related art, Sakoda et al disclose that if the instructions of the received control signal are to control the power value in the direction of allowing it to exceed the power control range, the number of receptions of the control signal is counted, and if the instructions of the control signal received thereafter are to control the power value in the direction of not allowing it to exceed the power control range, the count value of the number of receptions is decreased, and the power value is not controlled in the direction of not allowing it to exceed the power control range until the count value reaches a predetermined value. (abstract; figure 6; col. 9 line 5 to col. 10 line 38) Furthermore, Sakoda discloses inserting a transmission power increase signal or a transmission power decrease signal at one of the direction information output timing and the next power change timing based on the direction information (figure 6; col. 9, lines 31-35; col. 10, lines 29-34).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the new control information of Sakoda et al into the transmitted power control of Bontu et al to always enable the transmission with an optimum transmission power.

Consider **claim 2**, and **as applied to claim 1 above**, Bontu et al, as modified by Sakoda et al, disclose the claimed invention wherein the information generating means generates control information for minimizing a change in transmission power under the condition that the supplied direction information is out of both an increase and a decrease. (Bontu et al: col. 2, lines 23-43)

Consider **claim 3**, and **as applied to claim 1 above**, Bontu et al, as modified by Sakoda et al, disclose the claimed invention wherein the direction determining means determines whether the direction information belongs to either of the increase and decrease and thereby outputs the direction information according to the result of comparison (Bontu et al: col. 2, lines 23-43) and outputs a reset signal for erasing the integrated value corresponding to the result of computation to the integrating means. (Bontu et al: abstract; col. 2, lines 24-42)

Consider **claim 4**, and **as applied to claim 2 above**, Bontu et al, as modified by Sakoda et al, disclose the claimed invention wherein the direction determining means determines whether the direction information belongs to either of the increase and decrease and thereby outputs the direction information according to the result of comparison and outputs a reset signal for erasing the integrated value corresponding to the result of computation to the integrating means. (Bontu et al: abstract; col. 2, lines 24-42)

Conclusion

Any response to this Office Action should be **faxed to** (571) 273-8300 **or mailed to:**

Commissioner for Patents
P.O. Box 1450

Alexandria, VA 22313-1450

Hand-delivered responses should be brought to

Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Bobbak Safaipoor whose telephone number is (571) 270-1092. The Examiner can normally be reached on Monday-Friday from 9:00am to 5:00pm.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Matthew Anderson can be reached on (571) 272-4177. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free) or 703-305-3028.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist/customer service whose telephone number is (571) 272-2600.

Art Unit: 2618

/Bobbak Safaipoor/
Examiner, Art Unit 2618

July 31, 2008

/Matthew D. Anderson/

Supervisory Patent Examiner, Art Unit 2618